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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,905	03/19/2004	Alan W. Henley	8266-1276	8373

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EXAMINER

HEWITT, JAMES M

ART UNIT PAPER NUMBER

3679

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,905	<b>Applicant(s)</b> HENLEY ET AL.	
	<b>Examiner</b> James M Hewitt	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/9/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 33-35 are objected to because of the following informalities:

In claim 33, the first and second support sections are said to be releasably coupled to the mattress. Claim 1, from which claim 33 depends, requires the mattress to comprise the first and second support sections. So, if the first and second sections are components of the mattress, it is unclear as to how the sections can be said to be coupled to the mattress.

In claim 33 line 3, it is unclear as to what "therein" modifies.

In claim 34, the first and second support sections are said to be releasably coupled to the mattress. Claim 15, from which claim 34 depends, requires the mattress to comprise the first and second support sections. So, if the first and second sections are components of the mattress, it is unclear as to how the sections can be said to be coupled to the mattress.

In claim 34 line 2, it is unclear as to what "therein" modifies.

In claim 35, the first and second support sections are said to be releasably coupled to the mattress. Claim 25, from which claim 35 depends, requires the mattress to comprise the first and second support sections. So, if the first and second sections are components of the mattress, it is unclear as to how the sections can be said to be coupled to the mattress.

In claim 35 line 1, "the first air fluidized support section" lacks antecedent basis.

In claim 35 line 2, "the second air fluidized support section" lacks antecedent basis.

In claim 35 line 3, it is unclear as to what "therein" modifies.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Vrzalik (US 6,721,979).

With respect to claim 1 and with reference to Figure 6, Vrzalik discloses a first air fluidized support section (322a); a second air fluidized support section (322b) positioned in spaced relation to the first section; and an air cushion (see figure) positioned intermediate the first section and the second section.

With respect to claim 2, the first section is a foot support section located to support the feet of a patient.

With respect to claim 3, wherein the second section is a seat support section located to support the seat of the patient.

With respect to claim 4, wherein the first section is releasably coupled adjacent the air cushion.

With respect to claim 5, further comprising a first replacement air cushion configured to replace the first section. Given the broadest reasonable interpretation, one of the air cushions beneath the first section would constitute a replacement cushion upon removing first section (322a), for whatever reason, from the air bed.

With respect to claim 6, wherein the second support section is releasably coupled adjacent the air cushion.

With respect to claim 7, further comprising a second replacement air cushion configured to replace the second section. Given the broadest reasonable interpretation, one of the air cushions beneath the second section would constitute a replacement cushion upon removing second section (322b), for whatever reason, from the air bed.

With respect to claim 8, wherein the first and second section each include a chamber and a fluidizable material located within the chamber.

With respect to claim 9, wherein the first and second section each further include a plenum located beneath the chamber and configured to be coupled to an air supply to supply air to the plenum so that air passes upwardly from the plenum through the chamber to fluidize the fluidizable material.

With respect to claim 10, wherein the air cushion is a knee zone air cushion located to support the legs of the patient. See Figure 6.

With respect to claim 11, further comprising a head zone air cushion positioned in spaced relation to the seat support section and configured to support the head of a patient. See Figure 6.

With respect to claim 12, further comprising a shoulder zone air cushion positioned intermediate the head zone air cushion and the seat support section and configured to support the back of a patient. See Figure 6.

With respect to claim 13, further comprising a lumbar cushion positioned intermediate the seat section and the shoulder cushion. See Figure 6.

With respect to claim 14, wherein the fluidizable material of the first section is positioned longitudinally adjacent a first end of the air cushion, and the fluidizable material of the second section is positioned longitudinally adjacent a second end of the air cushion. Note "adjacent" has been interpreted as "near" and also that each of the fluidizable sections may be varied in size.

With respect to claims 15-32, refer to the above rejections of claims 1-14. With respect to claim 19, an air supply (315) is coupled to the foot support section (see Figure 6). With respect to claim 20, the chamber or cushion coupled to the supply hoses constitutes the claimed manifold.

With respect to claims 33-35, each of the fluidized pouches that comprise each fluidized support section are removably coupled to the mattress such that a standard air cushion may be replaced therein. Given the broadest reasonable interpretation, "standard air cushion" is inclusive of any sized air cushion for any application that meets a given standard. For instance, an air cushion used in shoe soles.

### ***Response to Arguments***

Applicant's arguments filed 3/9/05 have been fully considered but they are not persuasive.

Applicant asserts "Applicants find no teaching and/or suggestion by Vrzalik wherein a mattress comprises an air cushion or non-fluidized support section, positioned intermediate an air fluidized support section, as required by the present claims. For example, referring to Figs. 5 and 6, Vrzalik merely teaches a mattress sectioned into three basic cushions 318a, 318b, and 318c. These cushions include fluidizable bead containment pouches 322a-c. (see also column 10, lines 18-39). As such, Vrzalik does not teach of a mattress having an air cushion or non-fluidized support section positioned intermediate an air fluidized support section, but rather teaches a series of air cushions which contain fluidized air bags." In response, Vrzalik's cushions 318a-c are comprised of six internal baffles which divide the cushions 318a-c into smaller air compartments or cushions (see column 10 lines 27-28 and Figure 6). Such smaller air cushions are positioned intermediate fluidized sections 322a and 322b, and 322b and 322c.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 571-272-7084. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**